

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of:
Panayotis VERDES

Application No.: 10/555,013

Confirmation No.: 2625

Filed: October 10, 2006

Art Unit: 3711

For: CUBIC LOGIC TOY

Examiner: S. B. Wong

REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37
CFR § 1.705 (d)

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

Pursuant to CFR § 1.705 (d), the Patentee hereby requests reconsideration of the patent term adjustment indicated on the Notice of Allowance for Application No. 10/555,013 (Exhibit 1). Specifically, while the Notice of Allowance dated June 3, 2009 indicates a patent term adjustment of 216 days; Patentee submits that the patent term adjustment should correctly be 542 days.

STATEMENT OF FACTS

1. The Notice of Allowance issued in this case on June 3, 2009 indicated that the Patent Term Adjustment to date was 216 days, (see Exhibit 1).
2. The U. S. Patent and Trademark Office's Patent Term Adjustment History, as indicated in the Patent Application Information Retrieval (PAIR) system indicates a Patent Term Adjustment due to prosecution delays of 216 days, based upon 280 days of USPTO delays minus 64 days of Applicant delay (see Exhibit 2).

3. However, the PAIR system does not indicate any Patent Term Adjustment due to the USPTO failure to issue a patent within three (3) years (36 months) from the actual national stage commencement date of the application, November 21, 2005 (37 C.F.R. § 1.702(b)), which delay was 326 days (see U.S.C. § 371(b)).
4. In accordance with the recent District Court decision in *Wyeth et al. v. Dudas*, 88 USPQ2d 1538 (D.D.C. 2008), the correct Patent Term Adjustment should be 216 days of prosecution delay, plus 326 days for the failure of the USPTO to issue a patent within three (3) years of the actual filing date of the application (37 C.F.R. § 1.702(b)), for a total of 542 days of Patent Term Adjustment.
5. Accordingly, Patentee hereby requests that the U. S. Patent and Trademark Office correct the calculation of the Patent Term Adjustment for the above-identified patent to **542 days**.

**COMPLIANCE WITH REQUIREMENTS OF
37 CFR § 1.705 (b)(1) AND (2)**

6. A statement of facts is presented above, detailing the relevant dates and the correct patent term adjustment.
7. The present patent is not subject to any Terminal Disclaimer or any expiration date specified in a Terminal Disclaimer (§ 1.705(b)(2)(iii)).
8. There were no circumstances constituting a failure to engage in reasonable efforts to conclude processing or examination of the above-identified application (§ 1.705(iv)(B)).

CONCLUSION

The USPTO is requested to correctly indicate that U.S. Application No. 10/555,013 is entitled to 542 days of Patent term Adjustment.

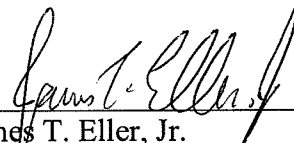
PAYMENT OF FEES

As set forth in the attached Fee Transmittal, the Commissioner is hereby authorized to charge the amount of \$200.00 to Deposit Account No. 02-2448 for the consideration of this Request as required by 37 C.F.R. § 1.18(e).

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 02-2448 for any additional fees required.

Dated: DEC 11 2009

Respectfully submitted,

By 
James T. Eller, Jr.
Registration No.: 39,538
BIRCH, STEWART, KOLASCH & BIRCH, LLP
8110 Gatehouse Road
Suite 100 East
P.O. Box 747
Falls Church, Virginia 22040-0747
(703) 205-8000
Attorney for Applicant

CDW